

**TRANSCRIPT OF
SEALED
PROCEEDINGS HELD
ON JAN. 10, 2023**

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SEALED PROCEEDINGS

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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

CHASOM BROWN, WILLIAM BYATT,
JEREMY DAVIS, CHRISTOPHER
CASTILLO, AND MONIQUE TRUJILLO,
INDIVIDUALLY AND ON BEHALF OF
THEMSELVES AND ALL OTHERS
SIMILARLY SITUATED,

CASE CV-20-03664 YGR (SVK)

SAN JOSE, CALIFORNIA

JANUARY 10, 2023

PLAINTIFF,
VS.

SEALED PAGES 1 - 36

GOOGLE LLC,

DEFENDANT.

COPY

TRANSCRIPT OF SEALED ZOOM PROCEEDINGS
BEFORE THE HONORABLE SUSAN VAN KEULEN
UNITED STATES MAGISTRATE JUDGE

A-P-P-E-A-R-A-N-C-E-S

FOR THE PLAINTIFF: MORGAN AND MORGAN COMPLEX LITIGATION
GROUP
BY: RYAN MCGEE
201 N. FRANKLIN STREET, 7TH FLOOR
TAMPA, FLORIDA 33602

SUSMAN GODFREY L.L.P.
BY: AMANDA K. BONN
1900 AVENUE OF THE STARS, SUITE 1400
LOS ANGELES, CALIFORNIA 90067

BOIES SCHILLER FLEXNER LLP
BY: MARK C. MAO
44 MONTGOMERY STREET, 41ST FLOOR
SAN FRANCISCO, CALIFORNIA 94104

(APPEARANCES CONTINUED ON THE NEXT PAGE.)

OFFICIAL COURT REPORTER: IRENE L. RODRIGUEZ, CSR, RMR, CRR
CERTIFICATE NUMBER 8074

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY,
TRANSCRIPT PRODUCED WITH COMPUTER.

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APPEARANCES: (CONT'D)

FOR THE DEFENDANT:

QUINN EMANUEL URQUHART AND SULLIVAN, LLP
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51 MADISON AVENUE, 22ND FLOOR
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BY: STEPHEN ANDREW BROOME
VIOLA TREBICKA
865 S. FIGUEROA STREET
10TH FLOOR
LOS ANGELES, CALIFORNIA 90017

BY: XI (TRACY) GAO
1300 I STREET NW, SUITE 900
WASHINGTON, DC 20005

ALSO PRESENT: GOOGLE LLC
BY: MATTHEW GUBIOTTI
TONI BAKER

ALSO PRESENT:

GOOGLE LLC

BY: MATTHEW GUBIOTTI
TONI BAKER

SEALED PROCEEDINGS

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1 SAN JOSE, CALIFORNIA JANUARY 10, 2023
2 P R O C E E D I N G S
3 (COURT CONVENED AT 10:07 A.M.)
4 THE COURT: GOOD MORNING EVERYONE. GOOD MORNING.
5 WELCOME BACK. WE'RE GOING TO CALL THESE MATTERS
6 SEPARATELY. I DO APPRECIATE EVERYONE ACCOMMODATING THE CHANGE
7 TO A VIDEO HEARING.
8 MY INTENTION WAS THAT THAT WOULD MAKE LIFE EASIER FOR THE
9 PARTIES, AND I UNDERSTAND SOME PEOPLE WERE ALREADY TRAVELLING.
10 I APOLOGIZE. WE'RE TRACKING THE WEATHER AS BEST WE CAN AND
11 TRYING TO ACCOMMODATE.
12 POWER AT THE COURTHOUSE HAS BEEN PERHAPS NOT AS RELIABLE
13 AS ONE WOULD LIKE OR ONE WOULD HOPE, SO I ACTUALLY THINK THAT
14 AT THE END OF THE DAY THIS IS THE BEST SETUP FOR US AT THIS
15 TIME.
16 AGAIN, I DO APOLOGIZE TO THE EXTENT THE COURT'S NOTICE WAS
17 NOT SUFFICIENTLY EARLY, BUT WE HAD LIVE HEARINGS ON FRIDAY, AND
18 WE KNEW THERE WOULD BE ANOTHER BIG STORM TODAY, SO HERE WE ARE.
19 ALL RIGHT. MS. FANTHROPE, IF YOU WILL CALL THE BROWN
20 MATTER. I KNOW THERE ARE SOME OVERLAPPING ISSUES. THERE ARE
21 DISTINCT ISSUES. SO WE WILL TAKE THIS ONE AT A TIME.
22 SO IF THE CALHOUN PLAINTIFFS WILL TURN OFF YOUR VIDEO, AND
23 FOR THOSE WHO ARE NOT SPEAKING, IF YOU CAN ALSO TURN OFF YOUR
24 VIDEO TO THE EXTENT THAT WORKS ON YOUR SIDE, THAT WOULD BE
25 HELPFUL SO WE HAVE AS FEW FACE SCREENS AS POSSIBLE SO WE CAN

SEALED PROCEEDINGS

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10:09AM 1 FOLLOW EVERYONE.

10:09AM 2 ALL RIGHT. MS. FANTHROPE, IF YOU'LL CALL THE FIRST

10:09AM 3 MATTER, PLEASE.

10:09AM 4 THE CLERK: YES. THIS IS A SEALED HEARING IN CASE

10:09AM 5 20-CV-3664, BROWN, ET AL., VERSUS GOOG LLC ET AL.

10:09AM 6 COUNSEL, PLEASE IDENTIFY YOURSELVES FOR THE RECORD

10:09AM 7 BEGINNING WITH THE PLAINTIFF.

10:10AM 8 MR. MCGEE: APOLOGIES, YOUR HONOR. I WAS WAITING ON

10:10AM 9 MY COLLEAGUE, MR. MAO.

10:10AM 10 THIS IS RYAN MCGEE OF THE LAW FIRM OF MORGAN & MORGAN FOR

10:10AM 11 THE PLAINTIFFS.

10:10AM 12 I'M JOINED BY MARK MAO OF BOIES SCHILLER FLEXNER, AND ALSO

10:10AM 13 MS. AMANDA BONN OF SUSMAN GODFREY.

10:10AM 14 THE COURT: THANK YOU, MR. MCGEE, MR. MAO, MS. BONN,

10:10AM 15 WELCOME.

10:10AM 16 AND FOR GOOGLE TODAY, MR. SCHAPIRO?

10:10AM 17 MR. SCHAPIRO: YES. ANDREW SCHAPIRO FOR GOOGLE.

10:10AM 18 I'M JOINED BY VIOLA TREBICKA AND TRACY GAO, WHO I THINK WILL BE

10:10AM 19 HANDLING MOST OF THE DISCUSSIONS RELATING TO BROWN TODAY WITH

10:10AM 20 JOSEF ANSORGE AND STEPHEN BROOME WHO ARE ALSO HERE ALSO FROM

10:10AM 21 OUR FIRM REPRESENTING GOOGLE, QUINN EMANUEL.

10:10AM 22 AND MATTHEW GUBIOTTI AND TONI BAKER, IN-HOUSE COUNSEL FROM

10:10AM 23 GOOGLE, ARE ALSO WITH US.

10:10AM 24 THE COURT: ALL RIGHT. THANK YOU. WELCOME.

10:11AM 25 AS MS. FANTHROPE INDICATED, THIS PROCEEDING IS UNDER SEAL,

SEALED PROCEEDINGS

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11AM 1 AND I WILL -- I DO ORDER THAT THE TRANSCRIPTS MAY BE RELEASED
10:11AM 2 TO THE PARTIES FOLLOWING THE HEARING AS SOON AS THEY ARE
10:11AM 3 AVAILABLE. THAT WILL SAVE US ISSUING AN ORDER LATER FOR
10:11AM 4 RELEASE.

10:11AM 5 ALL RIGHT. IN BROWN WE ARE HERE TODAY TO ADDRESS GOOGLE'S
10:11AM 6 MOTION FOR RELIEF FROM THE PRESERVATION ORDER, AND THAT MOTION
10:11AM 7 WAS IN BRIEFING, IF NOT COMPLETED, WHEN JUDGE GONZALEZ ROGERS
10:11AM 8 ISSUED HER ORDER ON CLASS CERTIFICATION ISSUING -- EXCUSE ME,
10:11AM 9 CERTIFYING THE CLASS FOR INJUNCTIVE RELIEF BUT NOT CERTIFYING
10:11AM 10 THE CLASS FOR DAMAGES.

10:12AM 11 AND I UNDERSTAND THAT BROWN HAS PETITIONED THE
10:12AM 12 NINTH CIRCUIT FOR PERMISSION TO APPEAL THE CLASS CERTIFICATION
10:12AM 13 RULING. I THINK THAT WAS JUST FILED NEAR THE END OF THE YEAR.

10:12AM 14 AND SO I DID ASK THE PARTIES, FOLLOWING
10:12AM 15 JUDGE GONZALEZ ROGERS' ORDER, FOR FURTHER BRIEFING AS TO THE
10:12AM 16 IMPACT OF THE ORDER ON THE PRESERVATION PLAN, AND I RECEIVED
10:12AM 17 THOSE, AND I HAVE REVIEWED ALL OF THE PAPERS AND THE EXTENSIVE
10:12AM 18 PAPER AND BRIEFING FROM THE PARTIES ON THESE ISSUES.

10:12AM 19 WHAT I RECEIVED FROM GOOGLE WAS FOLLOWING THE -- OR
10:12AM 20 ADDRESSING THE IMPACT OF JUDGE GONZALEZ'S ORDER WAS AN UPDATED
10:12AM 21 REQUEST. THE INITIAL REQUEST WITH REGARDS TO RELIEF FROM THE
10:12AM 22 PRESERVATION PLAN ADDRESSED THE TABLES, THE LINKING AND A SET
10:13AM 23 OF LINKING AND MAPPING TABLES AND WHETHER THOSE IN FACT NEEDED
10:13AM 24 TO BE PRESERVED.

10:13AM 25 THE UPDATED REQUEST IS MUCH BROADER, WHICH IS TO STOP

SEALED PROCEEDINGS

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10:13AM 1 PRESERVING THE DOCUMENTS GOING FORWARD AND TO DELETE WHAT HAS
10:13AM 2 BEEN PRESERVED THUS FAR UNDER THE PLAN OR AT LEAST TO MOVE TO A
10:13AM 3 COST SHARING MODEL. AND I LOOKED AT THOSE ARGUMENTS. I SEE
10:13AM 4 OBVIOUSLY PLAINTIFFS' ARGUMENTS IN REPLY.
10:13AM 5 AND IT IS NOT MY -- WELL, MY TENTATIVE RULING, I DO NOT
10:13AM 6 INTEND TO CHANGE THE SCOPE OF THE ORDER, THAT IS, TO STOP
10:13AM 7 PRESERVING OR TO DELETE WHAT HAS ALREADY BEEN PRESERVED.
10:13AM 8 I THINK THAT THOSE ISSUES -- OBVIOUSLY THE ISSUE ON CLASS
10:14AM 9 CERTIFICATION IS UP ON APPEAL, AND ACTUALLY I DO HAVE A
10:14AM 10 LOGISTICAL QUESTION WITH REGARDS TO THAT, WHICH IS FOR THE
10:14AM 11 BROWN PLAINTIFFS, WHICH IS WHEN DO YOU ANTICIPATE OR DO YOU,
10:14AM 12 WHEN, IF YOU'RE ABLE, DO YOU ANTICIPATE HEARING FROM THE
10:14AM 13 NINTH CIRCUIT WITH REGARDS TO YOUR PETITION?
10:14AM 14 MR. MCGEE?
10:14AM 15 MR. MCGEE: YOUR HONOR, I DO WISH I HAD THAT CRYSTAL
10:14AM 16 BALL. I HAVE PARTICIPATED IN A FEW 23(F)'S OVER THE YEARS. I
10:14AM 17 HAVE NEVER SEEN ANY OF THEM COME TO FRUITION FOR ONE REASON OR
10:14AM 18 ANOTHER.
10:14AM 19 I WOULD INVITE MR. MAO OR MS. BONN IF THEY HAVE ANY MORE
10:14AM 20 INSIGHT, SINCE THEY DO PRACTICE A LITTLE BIT MORE IN THE
10:14AM 21 NINTH CIRCUIT THAN I DO.
10:14AM 22 MR. MAO: YOUR HONOR --
10:14AM 23 THE COURT: EDUCATED GUESS, MR. MAO?
10:14AM 24 MR. MAO: YES. SOMEWHERE BETWEEN FOUR TO SIX
10:15AM 25 MONTHS, YOUR HONOR.

SEALED PROCEEDINGS

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10:15AM 1 THE COURT: ALL RIGHT. MS. BONN, DID YOU HAVE
10:15AM 2 ANYTHING TO ADD TO THAT?

10:15AM 3 MS. BONN: I THINK THAT SOUNDS RIGHT. I THINK IT'S
10:15AM 4 POSSIBLE WE CAN HEAR ONE WAY OR ANOTHER WHETHER THEY'RE GOING
10:15AM 5 TO TAKE UP THE 23(F) PETITION MORE QUICKLY, BUT I DON'T THINK
10:15AM 6 FOUR TO SIX MONTHS SOUNDS OUT OF THE ORDINARY.

10:15AM 7 THE COURT: ALL RIGHT. SO, AGAIN, IN LIGHT OF THOSE
10:15AM 8 ISSUES, OBVIOUSLY THE CLASS CERTIFICATION ISSUE, THE CASE HERE
10:15AM 9 IN THE NORTHERN DISTRICT IS GOING FORWARD. IT IS NOT STAYED.
10:15AM 10 I APPRECIATE THEIR ARGUMENTS AS TO, WELL, WHAT IS NEEDED OR NOT
10:15AM 11 NEEDED WITH THE CLASS AS IS, BUT THE CLASS CERT QUESTION IS
10:15AM 12 BEFORE THE NINTH CIRCUIT, SO I AM NOT INCLINED TO MAKE THOSE
10:15AM 13 CHANGES REQUESTED BY GOOGLE IN ITS UPDATED REQUEST.

10:15AM 14 BUT THAT THEN BRINGS US BACK TO THE ORIGINAL MOTION FOR
10:15AM 15 RELIEF, WHICH ADDRESSES [REDACTED] TABLES, [REDACTED] TABLES
10:16AM 16 AND [REDACTED] ANALYTICAL TABLES.

10:16AM 17 AND LOOKING AT THAT, I SEE THAT REQUEST AS -- FOLLOWS FROM
10:16AM 18 MY ORDER. PERHAPS IT'S A REQUEST FOR CLARIFICATION OR FOR
10:16AM 19 WHETHER OR NOT A DETERMINATION WHETHER OR NOT THESE TABLES FIT
10:16AM 20 THE ORDER, AND WE'LL WORK THROUGH THAT HERE IN JUST A MOMENT.
10:16AM 21 BUT IT APPEARS TO ME THAT THEY DO, THAT IS, THESE TABLES FALL
10:16AM 22 UNDER MY ORDER, BUT MAYBE NOT ENTIRELY.

10:16AM 23 AND WHAT DO WE DO ABOUT THAT? CAN THE PARTIES WORK OUT
10:16AM 24 WHICH PORTIONS NEED TO BE SAVED AND WHAT ARE THE IMPLICATIONS
10:16AM 25 WITH REGARDS TO COST SHIFTING? SO THAT'S VERY GENERALLY WHERE

SEALED PROCEEDINGS

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10:17AM 1 I AM.

10:17AM 2 SO LET ME START HERE, WHICH IS OF COURSE I WENT BACK TO
10:17AM 3 THE TRANSCRIPT WHERE WE WERE ADDRESSING PRESERVATION OF THE
10:17AM 4 TABLES, AND I THINK I WAS CLEAR ON THE RECORD THAT IF THE TABLE
10:17AM 5 IS NEEDED TO WORK WITH ANY OF THE DATA AT ISSUE, IT HAS TO BE
10:17AM 6 PRESERVED. IF THE TABLE IS COMPLETELY UNRELATED TO ANY OF THE
10:17AM 7 DATA IDENTIFICATION WERE PRODUCED IN THIS CASE, IDENTIFIED OR
10:17AM 8 PRODUCED, THEN IT DOES NOT NEED TO BE PRESERVED.

10:17AM 9 NOW, GOOGLE HAS IDENTIFIED [REDACTED] TABLES OR HAS SAID IT IS
10:17AM 10 PRESERVING [REDACTED] TABLES THAT CONTAIN MAPPING OR LINKING
10:17AM 11 IDENTIFIERS THAT ARE SUBJECT TO PRESERVATION IN ONE OF THE
10:17AM 12 SOURCES IDENTIFIED IN THE PRESERVATION ORDERS, AND I APPRECIATE
10:17AM 13 THAT.

10:18AM 14 GOOGLE ALSO THEN GOES ON TO SAY THAT HAVING REVIEWED THE
10:18AM 15 EVIDENTIARY RECORD, IT'S PRESERVING TABLES ADDRESSED IN
10:18AM 16 DEPOSITIONS OR DOCUMENTS.

10:18AM 17 SO MY FIRST QUESTION, MS. TREBICKA, FOR GOOGLE IS SO IS
10:18AM 18 THAT IN ADDITION TO THE [REDACTED] TABLES?

10:18AM 19 ARE THERE ADDITIONAL TABLES ARISING FROM THE EVIDENTIARY
10:18AM 20 RECORD OR ARE THOSE -- IS THAT JUST A FURTHER DESCRIPTION OF
10:18AM 21 THE [REDACTED]? IT WASN'T CLEAR TO ME FROM THE PAPER.

10:18AM 22 MS. TREBICKA: RIGHT. THE [REDACTED] TABLES IS THE SUM
10:18AM 23 TOTAL OF THE TABLES THAT WE HAVE IDENTIFIED THAT FIT THE
10:18AM 24 DESCRIPTION WHETHER -- FROM ALL SOURCES PURSUANT TO OUR
10:18AM 25 INVESTIGATION.

SEALED PROCEEDINGS

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10:18AM 1 THE COURT: OKAY. THEN AS I UNDERSTAND GOOGLE'S
10:18AM 2 POSITION, IT IS THAT THE [REDACTED] TABLES CONTAIN LINKS
10:18AM 3 THAT ARE DERIVED FROM THE [REDACTED] TABLES THAT ARE BEING PRESERVED;
10:18AM 4 IS THAT CORRECT?
10:18AM 5 MS. TREBICKA: CORRECT, FROM A SUBSET OF THOSE [REDACTED]
10:19AM 6 TABLES IS.
10:19AM 7 THE COURT: OKAY. ALL RIGHT.
10:19AM 8 AND THAT THE ANALYTICS TABLE RELATE TO THE GOOGLE
10:19AM 9 ANALYTICS PRODUCTS, AND THERE'S AN EXPLANATION ABOUT THE
10:19AM 10 MAPPING THAT IS PROVIDED ALREADY WITH REGARDS TO THE ANALYTICS
10:19AM 11 LOGS IS SUFFICIENT AND THAT THIS IS JUST ADDITIONAL
10:19AM 12 INFORMATION.
10:19AM 13 IS THAT -- I'M MOSTLY SIMPLIFYING FROM THE BRIEFS.
10:19AM 14 MS. TREBICKA: YES, YOUR HONOR. SORRY, YOUR HONOR.
10:19AM 15 ESSENTIALLY THE MAPPING WITHIN THESE ANALYTICS TABLES IS
10:19AM 16 ALREADY CONTAINED WITHIN THE ANALYTICS DATA THAT WE ARE
10:19AM 17 PRESERVING IN BROWN BECAUSE THE MAPPING ITSELF IS PART OF THE
10:19AM 18 SAMPLE THAT IS BEING PRESERVED.
10:19AM 19 THE COURT: OKAY. ALL RIGHT.
10:19AM 20 MS. TREBICKA: I GUESS IS HOW WE WOULD PUT IT.
10:19AM 21 THE COURT: ALL RIGHT. AND THEN I DID LOOK AT THE
10:20AM 22 STATISTICAL, THE NUMBERS THAT WERE PROVIDED AND THE SUPPORTING
10:20AM 23 DECLARATIONS AROUND THEM, AND I WILL SAY THAT I AM SURPRISED AT
10:20AM 24 THE DISPROPORTIONALITY BETWEEN WHAT IS BEING PRESERVED IN THESE
10:20AM 25 TABLES, THESE [REDACTED] TABLES AT ISSUE IN GOOGLE'S MOTIONS AND ALL

SEALED PROCEEDINGS

10

20AM 1 OTHER PRESERVED DATA THAT FALL UNDER THE PRESERVATION ORDER IN
10:20AM 2 THIS CASE WHICH I TAKE THAT AS THIS IS NEW INFORMATION. I
10:20AM 3 THINK IT'S REASONABLE THAT IT'S COME TO LIGHT AS SLEEVES GET
10:20AM 4 ROLLED UP AND THE PRESERVATION PLAN IS BEING PUT INTO PLACE OR
10:20AM 5 IS BEING EXECUTED. OBVIOUSLY THE PLAN IS IN PLACE.
10:20AM 6 AND IT'S SUBSTANTIAL. EVEN IF WE DON'T LOOK AT THE COST
10:20AM 7 NUMBERS, AND I KNOW THERE'S SOME DEBATE ABOUT WHAT IS REFLECTED
10:21AM 8 THERE, BUT JUST LOOKING AT THE AMOUNT OF DATA PRESERVED IN
10:21AM 9 EACH, THESE TABLES ARE SIGNIFICANTLY, MANY TIMES OVER ALL OF
10:21AM 10 THE OTHER PRESERVATION, THE AMOUNT OF DATA TO BE PRESERVED
10:21AM 11 UNDER ALL OTHER ASPECTS OF THE ORDER.
10:21AM 12 AND THAT IN MY MIND CALLS INTO QUESTION THE
10:21AM 13 PROPORTIONALITY AND AS WELL AS, FRANKLY, THE NEED FOR FULL
11AM 14 PRESERVATION OF ALL OF THESE TABLES.
10:21AM 15 I ALSO APPRECIATE THAT THERE'S NOT A LOT OF EVIDENCE. I
10:21AM 16 MEAN, THERE'S A -- THERE ARE SEVERAL DECLARATIONS FROM GOOGLE
10:21AM 17 ON THESE POINTS BUT PLAINTIFFS HAVEN'T HAD AN OPPORTUNITY TO
10:21AM 18 EXPLORE THAT.
10:21AM 19 WE'RE NOT GOING TO REOPEN DISCOVERY, BUT I WONDER IF THERE
10:22AM 20 ISN'T A MECHANISM WHERE THE PARTIES CAN MEET AND CONFER, GET
10:22AM 21 EXPERT INPUT FROM THE GOOGLE ENGINEERS, HAVE -- PLAINTIFFS CAN
10:22AM 22 HAVE THEIR OWN EXPERTS LOOK AT THAT, IF THE PARTIES CAN WORK
10:22AM 23 THROUGH THIS, IF THIS IS AN EXERCISE THAT BOTH SIDES BELIEVE
10:22AM 24 NEED SPECIAL MASTER GUIDANCE, OR WHAT.
10:22AM 25 SO IT'S SORT OF WHAT IS THE PATH FORWARD? BUT THAT'S

SEALED PROCEEDINGS

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22AM 1 GENERALLY WHAT I'M LOOKING AT IN TERMS OF HOW TO ADDRESS THE
10:22AM 2 TABLES ISSUE.

10:22AM 3 SO, MS. TREBICKA, IT'S GOOGLE'S MOTION, SO I'M GOING TO
10:22AM 4 LET YOU GO FIRST. I WANTED TO BE SURE THAT YOU UNDERSTOOD SORT
10:22AM 5 OF WHAT I'M LOOKING AT AND THINKING BECAUSE THERE'S A LOT OF
10:22AM 6 OTHER MATERIAL HERE THAT WE WON'T UNPACK HERE TODAY.

10:22AM 7 SO LET ME START WITH GOOGLE, AND THEN I'D LIKE TO HEAR
10:23AM 8 FROM BROWN.

10:23AM 9 MS. TREBICKA: YES, YOUR HONOR. SO WITH RESPECT TO
10:23AM 10 THE TABLES, I'D LIKE TO SET IT IN PERSPECTIVE WITH RESPECT
10:23AM 11 TO WHETHER -- MEANING WHERE IT FITS IN THE PRESERVATION PLAN.

10:23AM 12 WE HAVE 11 MONTHS OF SPECIAL MASTER DISCOVERY CLASSES,
10:23AM 13 COUNTLESS DOCUMENTS PRODUCED, DISCOVERY RESPONSES PRODUCED,
.3AM 14 ET CETERA, FROM WHICH WE IDENTIFIED THE SOURCES THAT FROM WHERE
10:23AM 15 DATA WOULD BE PRESERVED.

10:23AM 16 ONCE WE IDENTIFIED THOSE SOURCES, AND THAT WAS DONE,
10:23AM 17 AGAIN, WITH INPUT FROM EXPERTS AND SPECIAL MASTER AND
10:23AM 18 YOUR HONOR, THEN PLAINTIFFS HAVE THIS REQUEST OF GOOGLE
10:23AM 19 PRESERVING MAPPING OR LINKING TABLES FOR THE PURPOSE OF BEING
10:23AM 20 ABLE TO READ THE DATA THAT WOULD BE PRESERVED. SO THAT WAS THE
10:23AM 21 PURPOSE OF THE MAPPING AND LINKING TABLES.

10:23AM 22 INITIALLY WE IDENTIFIED THE PP ID TO BISCOTTI TABLE.
10:23AM 23 YOUR HONOR SAID THAT WAS NOT ENOUGH. WE WENT BACK TO SQUARE
10:24AM 24 ONE. WE STARTED AN INVESTIGATIVE PROCESS WHEREBY WE IDENTIFIED
10:24AM 25 THESE ADDITIONAL TABLES, BUT OUR UNDERSTANDING, AND I THINK,

SEALED PROCEEDINGS

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1 AGAIN, WITH THIS PERSPECTIVE IN MIND, IS THAT THE PURPOSE THAT
2 THESE MAPPING OR LINKING TABLES NEED TO FULFILL IS THIS
3 IDENTIFIER MAPPING THAT THE COURT FOUND WAS JUSTIFIED.

4 SO WITH THAT PERSPECTIVE IN MIND, THE MAPPING TABLE -- THE
5 [REDACTED] MAPPING TABLES THAT WE HAVE IDENTIFIED, ALL OF THE MAPPING
6 OR LINKING THAT IS RELEVANT PER YOUR HONOR'S ORDER IS ALREADY
7 DUPLICATED ELSEWHERE IN THE DATA. THAT IS WHY WE THINK THAT
8 IT'S NOT EVEN A DISCUSSION THAT NEEDS TO HAPPEN, AN EXPERT
9 DISCUSSION THAT NEEDS TO HAPPEN, WELL, WHAT ELSE IS IN THE
10 DATA -- WHAT ELSE IS IN THESE MAPPING TABLES? HOW CAN WE
11 COMPROMISE, ET CETERA?

12 EVERYTHING THAT YOUR HONOR HELD IS RELEVANT AS FAR AS THE
13 MAPPING OR LINKING IS ALREADY BEING PRESERVED. THERE IS JUST
14 ABSOLUTELY NO REASON TO GO REOPEN DISCOVERY AND EXPEND EXTRA
15 COSTS, MORE ENGINEERING TIME, MORE BURDEN ON GOOGLE TO RE-DO
16 SOMETHING THAT HAS ALREADY BEEN DONE IN THIS CASE.

17 SO TO ANSWER YOUR HONOR'S QUESTION, WE THINK THAT THESE
18 MAPPING AND LINKING TABLES, JUST THESE [REDACTED] MAPPING OR LINKING
19 TABLES, AS YOUR HONOR NOTED, THE COST OF PRESERVING THEM IS
20 EXORBITANT. IT'S MANY, MANY FOLDS, THE COST OF PRESERVING THE
21 DATA ON THE BASIS OF THE PRESERVATION PLAN, AND THERE'S JUST
22 SIMPLY NO PURPOSE THAT IS SERVED BY PRESERVING THEM.

23 THE COURT: ALL RIGHT. I THOUGHT THAT -- I MEAN,
24 GOOGLE DOESN'T SAY IN THE PAPERS THAT THE DATA BETWEEN THESE
25 [REDACTED] TABLES AND -- WELL, THE RELEVANT DATA, AND I APPRECIATE

SEALED PROCEEDINGS

13

10:26AM 1 THESE TABLES HAVE A LOT OF OTHER INFORMATION, I TAKE THAT.

10:26AM 2 BUT THAT THE -- GOOGLE DID NOT SAY THAT THE RELEVANT DATA

10:26AM 3 IS DUPLICATED IN THE TABLES. IT USES THE WORD "DERIVED"

10:26AM 4 CERTAINLY AS TO THE [REDACTED] TABLES.

10:26AM 5 AND I APPRECIATE THE EXPLANATION IN THE DECLARATIONS BUT,

10:26AM 6 YOU KNOW, I THINK THAT THAT'S A QUESTION AS TO WHAT IS THAT AND

10:26AM 7 HOW DOES THAT WORK?

10:26AM 8 AND THEN TODAY I HEARD, I HEARD YOU REFER WITH REGARDS TO

10:26AM 9 THE ANALYTICS TABLES THAT THE INFORMATION IS DUPLICATED IN THE

10:26AM 10 EXISTING TABLES.

10:26AM 11 SO --

10:26AM 12 MS. TREBICKA: MAY I EXPLAIN?

10:26AM 13 THE COURT: YES, PLEASE.

10:26AM 14 MS. TREBICKA: THANK YOU, YOUR HONOR. YES.

10:26AM 15 I'LL TAKE ANALYTICS FIRST.

10:26AM 16 THE COURT: UH-HUH.

10:26AM 17 MS. TREBICKA: THE ANALYTICS MAPPING TABLES WERE

10:26AM 18 IDENTIFIED BECAUSE THEY CONTAIN A MAPPING BETWEEN UID OR CID TO

10:27AM 19 A BISCOTTI. THAT MAPPING OR LINKING FROM A UID OR CID TO A

10:27AM 20 BISCOTTI IS ALREADY CONTAINED IN THE ANALYTICS DATA, IN THE

10:27AM 21 SAMPLED ANALYTICS DATA THAT IS BEING PRESERVED PURSUANT TO THE

10:27AM 22 PRESERVATION PLAN, THAT EXACT LINK, MAPPING OR LINKING.

10:27AM 23 AND MY UNDERSTANDING IS THAT THE ANALYTICS TABLE DERIVE

10:27AM 24 THAT LINK FROM THE PRESERVED DATA, WHAT I'M CALLING THE

10:27AM 25 PRESERVED DATA, IN OTHER WORDS, FROM THE TABLES FROM WHERE THE

SEALED PROCEEDINGS

14

10:27AM 1 PRESERVED DATA -- NOT THE TABLES, FROM THE DATA SOURCES WHERE
10:27AM 2 THE PRESERVED DATA ARE SAMPLING FROM.

10:27AM 3 SO I'M USING THE WORD "DUPLICATE" NOW FOR PURPOSES OF
10:27AM 4 EXPLAINING IT IN A MORE SIMPLE AND UNDERSTANDABLE WAY, BUT IT
10:28AM 5 IS THE EXACT SAME INFORMATION AS FAR AS THE MAPPING OR LINKING
10:28AM 6 FROM UID OR CID TO BISCOTTI IN THE MAPPING TABLE AS WELL AS
10:28AM 7 THIS LINK OF UID OR CID TO BISCOTTI IN THE PRESERVED SAMPLED
10:28AM 8 DATA FOR THE ANALYTICS TABLE.

10:28AM 9 DOES THAT ANSWER YOUR HONOR'S QUESTION?

10:28AM 10 THE COURT: WELL, OKAY. SO WALK ME THROUGH. IT'S
10:28AM 11 BEEN A LITTLE WHILE. WALK ME BACK THROUGH WHAT IS UID TO CID?
10:28AM 12 TELL ME WHAT YOU'RE REFERRING TO.

10:28AM 13 MS. TREBICKA: IT'S UID OR CID TO BISCOTTI.

10:28AM 14 THE COURT: OKAY.

10:28AM 15 MS. TREBICKA: SO UID IS AN IDENTIFIER.

10:28AM 16 THE COURT: USER.

10:28AM 17 MS. TREBICKA: I BELIEVE -- AND MS. GAO, I'M SURE,
10:28AM 18 WILL JUMP UP IF I MESS THIS UP, BUT I BELIEVE IT'S AN
10:28AM 19 IDENTIFIER, AND CID IS ANOTHER IDENTIFIER.

10:28AM 20 THE COURT: RIGHT.

10:28AM 21 MS. TREBICKA: AND WHAT WOULD EXIST IN THESE MAPPING
10:28AM 22 OR LINKING TABLES IN THE ANALYTICS MAPPING OR LINKING TABLES IS
10:28AM 23 A LINK ESSENTIALLY, AGAIN, TO SIMPLIFY FOR PURPOSES OF
10:29AM 24 PICTURING IT, A ROW THAT HAS A UID OR CID, AND THEN THE NEXT
10:29AM 25 CELL HAS A BISCOTTI, AND THAT'S HOW THOSE TWO ARE LINKED OR

SEALED PROCEEDINGS

15

10:29AM 1 MAPPED.

10:29AM 2 THE COURT: OKAY.

10:29AM 3 AND THEN WHAT IS IN THE ANALYTICS LOGS THAT ARE ALREADY
10:29AM 4 SUBJECT TO PRESERVATION?

10:29AM 5 MS. TREBICKA: AS FAR AS THIS PIECE OF DATA THAT

10:29AM 6 WE'RE TALKING ABOUT, IT IS THAT SAME LINK, THE UID OR CID TO A
10:29AM 7 BISCOTTI.

10:29AM 8 THE COURT: OKAY. AND THE PLAINTIFFS MAKE THE

10:29AM 9 ARGUMENT THAT THE FIELDS IN THE DATA SOURCES THAT ARE ALREADY
10:29AM 10 BEING PRESERVED DON'T HAVE ANY OBVIOUS UID OR CID OR BISCOTTI

10:29AM 11 VALUES.

10:29AM 12 SO IS THIS AN INTERPRETATION ISSUE? AGAIN, I'M LOOKING
10:30AM 13 FOR A WAY TO PROVIDE ADDITIONAL INFORMATION.

10:30AM 14 MS. TREBICKA: YES, YOUR HONOR. PERHAPS IT NEEDS
10:30AM 15 CLARIFICATION.

10:30AM 16 [REDACTED]

10:30AM 17 [REDACTED]

10:30AM 18 [REDACTED] AND THIS IS READILY APPARENT FROM
10:30AM 19 CERTAIN DATA THAT WE HAVE PRODUCED IN THIS ACTION, AND I HAVE
10:30AM 20 ATTACHED TO MY DECLARATION EXHIBIT 4 TO MY DECLARATION, AND
10:30AM 21 I'LL JUST CONFIRM THE DOCKET NUMBERS FOR THAT,

10:30AM 22 BUT I BELIEVE IT IS DOCKET 799-3, 799-4.

10:30AM 23 THE COURT: ALL RIGHT. SO THAT'S THE ANALYTICS
10:30AM 24 TABLES.

10:30AM 25 WHAT ABOUT THE [REDACTED] TABLES AND THE DERIVING DATA

SEALED PROCEEDINGS

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10:31AM 1 OR THE LINKING/MAPPING INFORMATION CAN BE DERIVED FROM THE
10:31AM 2 INFORMATION ALREADY PROVIDED?

10:31AM 3 MS. TREBICKA: YES. YES, YOUR HONOR. I WILL
10:31AM 4 EXPLAIN THAT, AND I WILL JUST ASK MS. GAO TO CONFIRM FOR ME THE
10:31AM 5 DOCKET NUMBER BECAUSE I BELIEVE I MAY HAVE MISSTATED THE DOCKET
10:31AM 6 NUMBER, THE DOCKET NUMBER OF THE EXHIBITS THAT HAVE THE DATA,
10:31AM 7 THE PRODUCED DATA. SO SHE CAN DO THAT WHILE I EXPLAIN THE
10:31AM 8 [REDACTED] ISSUE.

10:31AM 9 THE COURT: SURE.

10:31AM 10 MS. TREBICKA: SO, YOUR HONOR, YOU'RE RIGHT, THE
10:31AM 11 [REDACTED] ISSUE IS SLIGHTLY DIFFERENT IN THAT IF WE HAVE --
10:31AM 12 THE DATA IN [REDACTED] IS DERIVED FROM OTHER TABLES. AND
10:31AM 13 WITH YOUR HONOR'S PERMISSION, I WOULD LIKE TO -- JUST ONE
10:31AM 14 SECOND, YOUR HONOR -- POINT YOU TO A DOCUMENT THAT WE HAVE
10:31AM 15 ATTACHED HERE.

10:32AM 16 BUT IT IS DERIVED FROM TABLES THAT WE ARE PRESERVING,
10:32AM 17 MAPPING TABLES THAT WE ARE PRESERVING.

10:32AM 18 ALL RIGHT. THE WAY IT WORKS, YOUR HONOR, IS THAT IT IS
10:32AM 19 DERIVED FROM CERTAIN TABLES THAT JUST TO KIND OF PLACE IT IN
10:32AM 20 A -- TO DRAW -- TO PAINT A PICTURE FOR YOUR HONOR. IT IS DRAWN
10:32AM 21 FROM TABLES THAT CONTAIN THE A TO C IDENTIFIER AND THEN ALSO
10:32AM 22 CONTAIN A -- OR MAPPING, ALSO CONTAIN A B TO C MAPPING. AND
10:32AM 23 THEN WHAT --

10:32AM 24 THE COURT: YES. I SAW THAT EXAMPLE IN THE
10:32AM 25 DECLARATION OF -- I CAN'T REMEMBER IF IT WAS MR. SEAH OR

SEALED PROCEEDINGS

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10:33AM 1 MR. POTHANA.

10:33AM 2 MS. TREBICKA: POTHANA. I BELIEVE IT WAS MR. SEAH.

10:33AM 3 THE COURT: UH-HUH.

10:33AM 4 MS. TREBICKA: SO, YES, YOUR HONOR, IT'S DERIVED

10:33AM 5 FROM. IT'S NOT EXACTLY DUPLICATED, THE EXACT DATA IN

10:33AM 6 [REDACTED] IS NOT DUPLICATED IN ANOTHER TABLE, BUT IT IS

10:33AM 7 POSSIBLE TO DERIVE THAT SAME LINK THAT IS AVAILABLE IN

10:33AM 8 [REDACTED] BY LOOKING AT THESE TABLES THAT ARE BEING

10:33AM 9 PRESERVED.

10:33AM 10 THE COURT: UH-HUH.

10:33AM 11 MS. TREBICKA: WHAT I WOULD LIKE TO POINT YOUR HONOR

10:33AM 12 TO IS A DOCUMENT THAT WE HAVE PRODUCED IN THIS ACTION AND I

10:33AM 13 HAVE ATTACHED TO MY DECLARATION, AND I KNOW THE CALHOUN DOCKET

10:33AM 14 NUMBER, AND I DON'T HAVE THE BROWN DOCKET NUMBER AVAILABLE

10:33AM 15 RIGHT NOW. SO IF I MAY?

10:33AM 16 THE COURT: I HAVE IT ALL HERE.

10:33AM 17 MS. TREBICKA: OKAY. I FIGURED YOU DO, YOUR HONOR.

10:33AM 18 THIS IS MY DECLARATION, SEALED DOCKET NUMBER 942-5, PUBLIC

10:34AM 19 943-2. AND IT IS A DOCUMENT PRODUCED UNDER GOOG-CALH-00374314

10:34AM 20 AND AT BATES LABEL ENDING IN 354 THIS DOCUMENT EXPLAINS -- AND

10:34AM 21 RELATED PAGES. THIS DOCUMENT --

10:34AM 22 THE COURT: I'M SORRY. WHAT IS THE EXHIBIT NUMBER

10:34AM 23 OF THE ATTACHMENT TO YOUR DECLARATION?

10:34AM 24 MS. TREBICKA: EXHIBIT NUMBER 1.

10:34AM 25 THE COURT: THIS IS ATTACHMENT NUMBER 1 TO YOUR

SEALED PROCEEDINGS

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~34AM 1 DECK?

10:34AM 2 MS. TREBICKA: RIGHT. I BELIEVE IT'S EXHIBIT

10:34AM 3 NUMBER 1 TO MY DECLARATION.

10:34AM 4 THE COURT: OKAY. AND BATES ENDING 354. OKAY.

10:35AM 5 MS. TREBICKA: 354 IS THE PIN CITE FOR THE DOCUMENT.

10:35AM 6 [REDACTED]

10:35AM 7 [REDACTED]

10:35AM 8 [REDACTED]

10:35AM 9 [REDACTED]

10:35AM 10 [REDACTED]

10:35AM 11 AND WHAT WE HAVE CONFIRMED IS THAT EACH ONE OF THESE LINKS

10:35AM 12 OR MAPPINGS ARE IN THE TABLES THAT WE HAVE IDENTIFIED FOR

10:35AM 13 PRESERVATION IN THOSE [REDACTED] TABLES THAT WE HAVE IDENTIFIED FOR

35AM 14 PRESERVATION, [REDACTED]

10:36AM 15 [REDACTED] [REDACTED]

10:36AM 16 [REDACTED]

10:36AM 17 THE COURT: OKAY. BUT THE TABLES THAT ARE BEING

10:36AM 18 PRESERVED, THE [REDACTED] AND THESE [REDACTED] NONE OF THAT HAS BEEN PRODUCED

10:36AM 19 TO PLAINTIFFS; IS THAT RIGHT? IT'S JUST BEING RETAINED BY

10:36AM 20 GOOGLE?

10:36AM 21 MS. TREBICKA: CORRECT, YOUR HONOR.

10:36AM 22 THE COURT: OKAY.

10:36AM 23 MS. TREBICKA: THIS IS PRESERVED DATA, NOT DATA THAT

10:36AM 24 HAS BEEN PRODUCED.

10:36AM 25 I WOULD LIKE TO POINT OUT, YOUR HONOR, THAT FROM THE

SEALED PROCEEDINGS

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10:36AM 1 PRESERVED DATA SOURCES, PLAINTIFFS HAVE HAD THE ABILITY TO
10:36AM 2 REVIEW SAMPLES FROM THE VAST MAJORITY OF THEM BECAUSE WE HAVE
10:37AM 3 PRODUCED NAMED PLAINTIFF'S DATA.

10:37AM 4 THE COURT: OKAY. WHAT DOES THAT HAVE TO DO WITH
10:37AM 5 THE TABLES? I'M NOT --

10:37AM 6 MS. TREBICKA: NO, THE TABLES PLAINTIFFS HAVE NOT
10:37AM 7 SEEN.

10:37AM 8 BUT AS FAR AS THE PRESERVED DATA SOURCES, YOUR HONOR, YES,
10:37AM 9 IT'S NOT RELATED TO TABLES IN THE SENSE THAT THEY HAVE NOT SEEN
10:37AM 10 THE TABLES. HOWEVER, THEY HAVE A SENSE FOR THE DATA THAT IS
10:37AM 11 BEING PRESERVED PURSUANT TO THIS PRESERVATION PLAN AND THE
10:37AM 12 TYPES OF INFORMATION THAT YOU NEED TO BE ABLE TO READ OR DECODE
10:37AM 13 THE DATA IS THE POINT.

10:37AM 14 THE COURT: OKAY. ALL RIGHT.

10:37AM 15 MS. TREBICKA: ALSO, YOUR HONOR, I WOULD LIKE TO
10:37AM 16 CLARIFY TWO THINGS.

10:37AM 17 FIRST UP, THE [REDACTED] TABLES IS THE SUM TOTAL. SO I DID NOT
10:37AM 18 MEAN TO SUGGEST IT WAS THE [REDACTED] PLUS THE [REDACTED] THAT WE'RE SEEKING
10:37AM 19 RELIEF FROM.

10:37AM 20 THE COURT: I UNDERSTAND.

10:37AM 21 MS. TREBICKA: OKAY. AND I WOULD ALSO LIKE TO POINT
10:37AM 22 OUT THAT THE TWO, THE DOCKET NUMBERS OF THOSE TWO PRODUCED
10:38AM 23 DOCUMENTS THAT SHOW THAT PLAINTIFFS HAVE THE UID OR CID TO
10:38AM 24 BISCOTTI LINKS OR MAP, MAPPINGS. THOSE ARE DOCUMENT NUMBER
10:38AM 25 805-8 AND DOCKET NUMBER 805-9.

SEALED PROCEEDINGS

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10:38AM 1 THE COURT: OKAY. GOT IT.

10:38AM 2 MR. MCGEE: YOUR HONOR, IF I MAY, JUST ONE POINT

10:38AM 3 OF -- JUST A CLARIFYING QUESTION TO MS. TREBICKA.

10:38AM 4 THE COURT: JUST HANG ON TO THAT, MR. MCGEE.

10:38AM 5 MR. MCGEE: OKAY.

10:38AM 6 THE COURT: JUST HANG ON.

10:38AM 7 OKAY. ALL RIGHT. SO WE HAVE THE PRESERVATION ORDER IN

10:38AM 8 PLACE. I INCLUDED IN THAT THE TABLES AS I DESCRIBED THAT WERE

10:39AM 9 NEEDED TO WORK WITH THE DATA, NOT ALL MAPPING AND LINKING

10:39AM 10 TABLES, BUT THOSE WITH DATA RELATED TO, AND OBVIOUSLY GOOGLE

10:39AM 11 HAS IDENTIFIED THESE [REDACTED] AND MAKES THE ARGUMENT THAT THIS DATA

10:39AM 12 IS AVAILABLE IN OTHER TABLES, AND WE HAVE THIS TREMENDOUS

10:39AM 13 DISPROPORTIONALITY BETWEEN STORAGE AND THESE TABLES, THAT IS,

10:39AM 14 INFORMATION FROM THESE TABLES AND THE REST OF THE PRESERVATION

10:39AM 15 OBLIGATIONS.

10:39AM 16 BUT THIS IS ALL THE -- THE PLAINTIFFS DON'T HAVE ANY

10:39AM 17 INSIGHT INTO THE TABLES OTHER THAN WHAT GOOGLE HAS SHARED HERE

10:39AM 18 THROUGH THIS PROCESS AND THE MOTION.

10:39AM 19 AM I UNDERSTANDING THAT CORRECTLY, MS. TREBICKA?

10:39AM 20 MS. TREBICKA: OTHER THAN THE INFORMATION THAT

10:39AM 21 GOOGLE HAS SHARED SO FAR, YOU'RE CORRECT.

10:39AM 22 THE COURT: OKAY. ALL RIGHT. THAT'S HELPFUL.

10:40AM 23 THANK YOU.

10:40AM 24 OKAY. LET ME HEAR FROM THE BROWN SIDE.

10:40AM 25 MR. MCGEE, I HAVE BEEN THROUGH THE PAPERS. I THINK I

SEALED PROCEEDINGS

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10:40AM 1 UNDERSTAND THE ISSUES OR THE CONCERNS, BUT TELL ME IF THERE IS
10:40AM 2 SOMETHING ADDITIONAL EITHER ARISING OUT OF WHAT YOU HAVE HEARD
10:40AM 3 TODAY OR BASED ON MY OPENING REMARKS.

10:40AM 4 MR. MCGEE: SURE, YOUR HONOR.

10:40AM 5 I THINK THAT REALLY AT THE HEART OF THIS IS THAT AS YOU DO
10:40AM 6 POINT OUT, GOOGLE DOES REPRESENT THAT THERE IS A MAGNITUDE OF
10:40AM 7 DATA THAT IS STORED IN THESE MAPPING AND LINKING TABLES THAT IS
10:40AM 8 NOT BEING PRESERVED ELSEWHERE.

10:40AM 9 AND AGAIN, WITH THE PAPERS, IT'S VERY OBVIOUS, AND YOU'VE

10:40AM 10 POINTED IT OUT IN THE HEARING HERE TODAY, WE DON'T KNOW WHAT

10:40AM 11 THAT IS. SO WITHOUT HAVING ANY INSIGHT INTO THAT, IT JUST

10:41AM 12 BECOMES DIFFICULT, IF NOT IMPOSSIBLE, FOR US TO ASSESS OR

10:41AM 13 QUANTIFY WHAT PREJUDICE WOULD RESULT FROM GOOGLE'S DELETION OF

10:41AM 14 THESE MAPPING AND LINKING TABLES AND KNOW THAT IN THE PAPERS WE

10:41AM 15 ASKED WHETHER IT WAS EVEN BEING PRESERVED AT THIS POINT BECAUSE

10:41AM 16 THE DECLARATIONS ARE MORE PHRASED IN THE HYPOTHETICAL THAN IT

10:41AM 17 HAS TAKEN US, IT WILL CONTINUE TO TAKE US, OR ANYTHING LIKE

10:41AM 18 THAT.

10:41AM 19 SO, YOUR HONOR, AGAIN, I THINK THE DISCUSSION WITH

10:41AM 20 MS. TREBICKA WAS HELPFUL TODAY BECAUSE IT DOESN'T SEEM LIKE

10:41AM 21 THESE ARE DUPLICATIVE. IT JUST SEEMS LIKE THEY DRAW FROM THESE

10:41AM 22 OTHER SOURCES THAT ARE BEING PRESERVED.

10:41AM 23 AGAIN, WE DON'T KNOW WHAT ELSE IS IN THESE [REDACTED] SOURCES,

10:41AM 24 THESE [REDACTED] DATA SOURCES, THE MAPPING AND LINKING TABLES, THAT

10:41AM 25 GOOGLE WOULD PROPOSE TO DELETE AND NO LONGER BE SUBJECT TO THE

SEALED PROCEEDINGS

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10:41AM 1 COURT'S PRESERVATION ORDER. I THINK THAT'S REALLY THE TAKEAWAY
10:42AM 2 FROM THE DISCUSSION TODAY BEYOND WHAT WAS DISCUSSED IN THE
10:42AM 3 PAPERS.

10:42AM 4 MR. MAO MAY HAVE SOMETHING TO ADD ON THE TECHNICAL SIDE.

10:42AM 5 THE COURT: AND WHAT WAS YOUR CLARIFYING QUESTION,

10:42AM 6 MR. MCGEE?

10:42AM 7 MR. MCGEE: OH, IT WAS SIMPLY TECHNICAL. SHE

10:42AM 8 MENTIONED THE DOCKET NUMBERS FROM THE SEALING MOTION, AND I WAS

10:42AM 9 JUST GOING TO ASK WHAT EXHIBITS THEY WERE. I THINK THEY WERE

10:42AM 10 EXHIBITS 4 AND 5 TO HER DECLARATION, BUT I JUST WANTED TO

10:42AM 11 CLARIFY THAT BECAUSE THE SEALING DOCKET NUMBERS ARE DIFFERENT

10:42AM 12 FROM THE ACTUAL DOCKET NUMBERS THAT I HAVE FOR THE MOTION

10:42AM 13 ITSELF, AS OPPOSED TO THE ADMINISTRATIVE MOTION.

10:42AM 14 THAT WAS ALL, JUDGE.

10:42AM 15 THE COURT: ALL RIGHT.

10:42AM 16 MS. TREBICKA, ARE THOSE EXHIBITS 4 AND 5? DOES IT

10:42AM 17 TRANSLATE THAT WAY, IF YOU KNOW?

10:42AM 18 MS. TREBICKA: YES, YOUR HONOR, IT DOES.

10:42AM 19 WOULD YOU LIKE ME TO RESPOND?

10:42AM 20 THE COURT: WELL, IN A MOMENT. I APPRECIATE THE

10:43AM 21 ISSUE THIS PRESENTS. THE PLAINTIFFS DON'T HAVE INSIGHT AS TO,

10:43AM 22 WELL, IS GOOGLE'S POSITION, THAT IS, IF IT DOESN'T PRESERVE

10:43AM 23 THIS INFORMATION, WE ALREADY HAVE IT, AND IT SEEMS LIKE THEY

10:43AM 24 OUGHT TO BE ABLE TO TEST THAT IN SOME WAY OR AT LEAST HAVE A

10:43AM 25 CLEAR AND DETAILED EXPLANATION OF WHAT DATA IN THE █████ TABLES

SEALED PROCEEDINGS

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10:43AM 1 IS DUPLICATIVE OR CAN BE DERIVED FROM THE OTHER TABLES.

10:43AM 2 GOOGLE IS MAKING THE CALL THAT THERE'S A SUBSET OF

10:43AM 3 RELEVANT DATA IN THESE TABLES OR RELATED DATA THAT RELATES TO

10:43AM 4 PRESERVATION, BUT YOU CAN GET IT OVER HERE AT THESE TABLES.

10:44AM 5 BUT IT'S SOME SUBSET. IT'S NOT ALL OF THE DATA IN THESE

10:44AM 6 TABLES, AND THAT'S THE WAY THAT THE PRESERVATION ORDER IS SET

10:44AM 7 UP. THAT'S THE WAY THAT THE ORDER WITH REGARD TO THE MAPPING

10:44AM 8 AND LINKING TABLES WAS SET UP.

10:44AM 9 I'M NOT GOING TO, AGAIN, REORDER OR REOPEN DISCOVERY AND

10:44AM 10 HAVE A FULL REVIEW OF EVERYTHING IN THESE TABLES. I DON'T

10:44AM 11 THINK THAT'S CALLED FOR.

10:44AM 12 BUT IT DOES SEEM THAT TO THE EXTENT THAT THE ARGUMENT BY

10:44AM 13 GOOGLE IS THAT WE SHOULDN'T HAVE TO PRESERVE THESE BECAUSE THIS

10:44AM 14 DATA IS AVAILABLE FROM THESE OTHER SOURCES THAT ARE BEING

10:44AM 15 PRESERVED, THAT IT MAY BE THAT THAT NEEDS TO BE MORE THOROUGHLY

10:44AM 16 DEMONSTRATED TO THE PLAINTIFFS.

10:44AM 17 MS. TREBICKA: YOUR HONOR, WE HAVE IDENTIFIED WHERE

10:44AM 18 THE DATA IS AND THE DATA SOURCES THAT ARE BEING PRESERVED WITH

10:45AM 19 THESE EXHIBITS 4 AND 5 THAT PLAINTIFFS APPARENTLY DID NOT HAVE,

10:45AM 20 THE EXHIBITS TO MY DECLARATION. SO THAT IDENTIFIES THE LINK.

10:45AM 21 THE COURT: WHY DID YOU THINK THAT THE PLAINTIFFS

10:45AM 22 DIDN'T HAVE THOSE?

10:45AM 23 MS. TREBICKA: OR DIDN'T HAVE THEM AT THEIR

10:45AM 24 FINGERTIPS OR DIDN'T KNOW. I'M NOT SURE. FOR SOME REASON --

10:45AM 25 MAYBE THEY HAD IT. I DON'T KNOW. BECAUSE MR. MCGEE ASKED FOR

SEALED PROCEEDINGS

24

10:45AM 1 THE NUMBERS AGAIN. I WAS JUST ASSUMING MAYBE THEY WEREN'T
10:45AM 2 AWARE THAT IT WAS IN THE DATA, SO NOW THAT EXPLANATION IS OUT
10:45AM 3 THERE.

10:45AM 4 AND IF PLAINTIFFS WERE, THEN THAT'S FINE.

10:45AM 5 MR. MCGEE: NO. IT WAS JUST FOR THE PURPOSES OF THE
10:45AM 6 RECORD THAT YOU WERE MAKING REPRESENTATIONS THAT INFORMATION
10:45AM 7 WAS SHARED. BUT, YOUR HONOR --

10:45AM 8 THE COURT: LET ME FINISH HEARING FROM MS. TREBICKA.

10:45AM 9 GO AHEAD.

10:45AM 10 MS. TREBICKA: THANK YOU.

10:45AM 11 SO -- BECAUSE THERE'S TWO PIECES TO CONFIRMING THAT THE
10:45AM 12 SAME DATA THAT IS FOUND IN THE TABLES THAT WE'RE SEEKING RELIEF
10:46AM 13 ON IS ALSO FOUND IN THE PRESERVED DATA. YOU NEED TO LOOK AT
10:46AM 14 THESE TWO SOURCES.

10:46AM 15 MY POINT IS THAT PLAINTIFFS ALREADY HAVE THE ABILITY TO
10:46AM 16 LOOK AT ONE SOURCE FOR THE ANALYTICS TABLES, THE PRESERVED DATA
10:46AM 17 AS WE HAVE NOW POINTED OUT, AND WE HAVE DETAILED DECLARATIONS
10:46AM 18 STATING WHAT IS FOUND AS FAR AS THE MAPPING OR LINKING IN THESE
10:46AM 19 MAPPING OR LINKING TABLES THAT WE HAVE IDENTIFIED.

10:46AM 20 AND, YOUR HONOR, THIS IS PRESERVATION. IT IS OUR BURDEN
10:46AM 21 TO IDENTIFY THEM, AND WE HAVE DONE THAT. WE HAVE BEEN VERY
10:46AM 22 TRANSPARENT IN THE CLASSES THAT WE UNDERWENT TO DO THAT. AND
10:46AM 23 IT IS LAID OUT IN THESE DECLARATIONS THAT WE TOOK A LOT OF TIME
10:46AM 24 TO PUT TOGETHER PRECISELY TO ANSWER YOUR HONOR'S QUESTION OF,
10:46AM 25 WELL, HOW CAN WE KNOW?

SEALED PROCEEDINGS

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46AM 1 SO WE THINK THAT WE HAVE FULFILLED THAT DEMONSTRATION THAT
10:46AM 2 YOUR HONOR IS LOOKING FOR IN TERMS OF HOW TO BE SURE THAT THE
10:46AM 3 DATA IS FOUND IN BOTH PLACES.

10:47AM 4 THE COURT: IT SEEMS TO ME THAT THE PLAINTIFFS
10:47AM 5 SHOULD AT LEAST, AND I -- IT DOESN'T LOOK LIKE THERE WAS MEET
10:47AM 6 AND CONFER AROUND THIS ISSUE IN ADVANCE OF THE MOTION AND
10:47AM 7 IT'S -- YOU KNOW, QUERY WHETHER THAT'S REQUIRED.

10:47AM 8 BUT THERE'S -- I SEE YOU, MR. MAO. I'M COMING BACK TO
10:47AM 9 YOUR SIDE.

10:47AM 10 BUT IT SEEMS THAT THE EITHER -- WELL, THERE WOULD BE A
10:47AM 11 BENEFIT AND PERHAPS A NEED FOR AN EXPLANATION OF THAT MATERIAL
10:47AM 12 TO THE EXTENT THAT IT'S NOT READILY AVAILABLE WITH TECHNICAL
10:48AM 13 PEOPLE ON BOTH SIDES SO THAT -- AND IT MAY WELL BE COUNSEL AND
10:48AM 14 IT MAY BE AN EXPERT, BUT WHO CAN HEAR AND UNDERSTAND AND SORT
10:48AM 15 OF VERIFY GOOGLE'S PROFFER AS TO, LOOK, HERE'S HOW -- THE A TO
10:48AM 16 C TO B, I APPRECIATE THAT, BUT THAT'S, THAT'S, YOU KNOW, IN
10:48AM 17 SIMPLIFIED, A MORE SIMPLIFIED ILLUSTRATION. BUT THEN, IN FACT,
10:48AM 18 THIS DATA CAN BE, CAN BE DERIVED, IS IN THE TABLES THAT ARE
10:48AM 19 BEING PRESERVED AND CAN BE FOUND ESSENTIALLY, YOU KNOW,
10:48AM 20 INSTRUCTIONS ON HERE IS HOW. TO ENSURE THAT THERE'S NOT
10:48AM 21 SOME -- THAT THEY'RE NOT CREATING A SITUATION WHERE DATA IS
10:49AM 22 BEING PRESERVED BUT ULTIMATELY CAN'T BE READ BECAUSE THESE
10:49AM 23 TABLES WERE NOT PRESERVED.

10:49AM 24 I THINK IT'S A WORTHWHILE INQUIRY, BUT IT WILL ALSO BE
10:49AM 25 FAIRLY SIMPLIFIED AND DIRECT INQUIRY OR DEMONSTRATION. AGAIN,

SEALED PROCEEDINGS

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49AM 1 WE ARE VERY FOCUSED ON THIS VERY NARROW SLICE OF THE
10:49AM 2 PRESERVATION OBLIGATION.

10:49AM 3 NOW, IN TERMS OF IT'S JUST ONE PIECE OF THE WHOLE AND YET
10:49AM 4 THIS ONE PIECE HAS, AGAIN, THIS DISPROPORTIONATE IMPACT ON THE
10:49AM 5 AMOUNT OF DATA TO BE PRESERVED.

10:49AM 6 SO IT'S A NONSTARTER TO SAY THAT WE NEED TO KNOW WHAT ALL
10:49AM 7 OF THAT DATA IS. WE'LL START WITH WHAT IS RELATED TO WHAT IS
10:50AM 8 ALREADY BEING PRESERVED AND HOW IS THAT -- YOU KNOW, HOW DOES
10:50AM 9 THAT TRANSLATE, IF YOU WILL? HOW DO YOU GET FROM WHAT IS IN
10:50AM 10 THE ANALYTICS AND [REDACTED] TABLES TO WHAT IS IN THE LOGS
10:50AM 11 THAT ARE ALREADY BEING PRESERVED?

10:50AM 12 SO LET ME HEAR -- MR. MAO, YOU'VE BEEN WAITING PATIENTLY.

10:50AM 13 MR. MAO: NO WORRIES, YOUR HONOR. REAL QUICK.
10AM 14 THREE QUICK POINTS, JUST TECHNICAL DETAILS I JUST WANT TO
10:50AM 15 CLARIFY REALLY QUICKLY.

10:50AM 16 SO, FIRST OF ALL, THE TABLES THEMSELVES HAVE NEVER BEEN
10:50AM 17 PRODUCED OR ALLOWED TO BE EXAMINED BY THE PLAINTIFFS. AND WHAT
10:50AM 18 MS. TREBICKA IS REFERRING TO IN TERMS OF HOW WE, QUOTE-UNQUOTE,
10:50AM 19 "INDIRECTLY WERE PUT ON NOTICE OF IT," IS THAT THE TABLES HELP
10:50AM 20 INFORM SOMEBODY TRYING TO PULL DATA FROM THE LOGS WHICH ROWS OF
10:50AM 21 DATA TO PULL FROM. OKAY?

10:50AM 22 SO WHEN SHE'S SAYING THAT WE'RE INDIRECTLY ON NOTICE OF
10:50AM 23 IT, WHAT SHE IS REFERRING TO IS, IS THAT WE'VE INDIRECTLY
10:51AM 24 REACTED WITH THE TABLES BECAUSE WE'VE ASKED CERTAIN OF OUR
10:51AM 25 PLAINTIFF ID'S TO BE PULLED. THEY HAD TO LOOK AT THE TABLE

SEALED PROCEEDINGS

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51AM 1 WITHOUT LETTING US LOOKING AT THE TABLE, AND THEN THEY GAVE US
10:51AM 2 BACK THE RESULTS.

10:51AM 3 SO WE ACTUALLY DO NOT KNOW WHAT IS IN THE TABLE OTHER THAN
10:51AM 4 WHAT WAS RETURNED TO US, AND THERE MAY BE OTHER COLUMNS AND
10:51AM 5 OTHER INFORMATION, AND THAT MAY BE RELEVANT, BUT THAT'S
10:51AM 6 SOMETHING THAT I NEED TO POINT OUT REALLY QUICKLY.

10:51AM 7 SECOND OF ALL, IN TERMS OF THERE BEING REDUNDANCIES WHERE
10:51AM 8 THE TABLE WAS DUPLICATED, THAT SUGGESTS THE TABLE WAS USED FOR
10:51AM 9 MULTIPLE DIFFERENT SERVICES AND NOT ONLY WERE WE NEVER PROVIDED
10:51AM 10 THE TABLES, WE WERE NEVER TOLD WHAT DIFFERENT SERVICES FALL
10:51AM 11 WITH THESE TABLES.

10:51AM 12 THE COURT: THAT WAS NEVER WITHIN THE SCOPE OF THE
10:51AM 13 ORDER, MR. MAO? PRODUCTION OF THE TABLES, PRODUCTION AND
51AM 14 EXPLANATION OF EVERYTHING THAT IS, YOU KNOW, YOU CAN MAP FROM
10:51AM 15 THESE TABLES WAS NEVER CONTEMPLATED BY THE PRESERVATION ORDER.

10:51AM 16 MR. MAO: RIGHT. ALL I'M SIMPLY CLARIFYING IS THAT
10:51AM 17 WHAT WE ARE BEING -- SORRY, WHAT WE ARE ALLEGEDLY HAVING BEEN
10:52AM 18 GIVEN, WHICH, IN FACT, WE DID NOT, RIGHT? IT'S JUST WE WERE
10:52AM 19 NEVER GIVEN AN OPPORTUNITY ON THAT.

10:52AM 20 AND THOSE WERE REALLY MY MAIN POINTS. I THINK THE LAST
10:52AM 21 POINT YOUR HONOR REALLY HIT ON WHICH IS THIS IS NOT THE SAME
10:52AM 22 SET OF DATA ACROSS DIFFERENT SET OF TABLES.

10:52AM 23 THAT'S IT, YOUR HONOR.

10:52AM 24 THE COURT: OKAY. ALL RIGHT.

10:52AM 25 AND, MR. MCGEE, DID YOU HAVE ANYTHING FURTHER?

SEALED PROCEEDINGS

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52AM 1 MR. MCGEE: NO, YOUR HONOR. I THINK HE'S SUMMARIZED
10:52AM 2 IT, AND I THINK THAT WE'RE -- WE'LL REST ON WHAT IS IN THE
10:52AM 3 PAPERS AND WHAT HAS BEEN DISCUSSED.

10:52AM 4 THE COURT: OKAY. LIKE MANY ISSUES IN THIS CASE, IT
10:52AM 5 IS COMPLEX, BUT NOT WITHOUT A PATH FORWARD, AND THE PARTIES
10:52AM 6 NEED TO FIGURE OUT WHAT THAT IS, AND YOU NEED TO DO IT IN SHORT
10:53AM 7 ORDER.

10:53AM 8 MS. TREBICKA, I -- MY TAKEAWAY FROM THE -- FROM YOUR
10:53AM 9 PAPERS WAS THAT THESE TABLES ARE NOT CURRENTLY BEING PRESERVED.
10:53AM 10 YOUR CURRENT PRESERVATION IS OF THE [REDACTED] TABLES, BUT YOU'VE
10:53AM 11 RAISED THIS ISSUE BECAUSE YOU RECOGNIZE THAT THERE IS
10:53AM 12 RELATED -- DATA THAT RELATES TO DATA THAT IS BEING PRESERVED,
10:53AM 13 BUT IT IS GOOGLE'S POSITION THESE TABLES ARE NOT NEEDED FOR THE
10:53AM 14 REASONS PROVIDED IN YOUR PAPERS.

10:53AM 15 IS THAT CORRECT?

10:53AM 16 MS. TREBICKA: YES, YOUR HONOR, THAT'S CORRECT.

10:53AM 17 THE COURT: OKAY. SO THAT NEEDS TO -- SO WE NEED TO
10:53AM 18 MOVE ON THIS WITH SOME SPEED.

10:53AM 19 MR. MCGEE, YOU HAD A QUESTION ON THAT LAST Q AND A?

10:53AM 20 MR. MCGEE: YES, YOUR HONOR, JUST THE NUMBERS HERE.

10:53AM 21 I THOUGHT I UNDERSTOOD THAT IT WAS [REDACTED] WERE IDENTIFIED.

10:53AM 22 IT'S [REDACTED] THAT
10:54AM 23 WERE AT ISSUE? THAT'S JUST -- I THINK I'VE HEARD KIND OF
10:54AM 24 DISCUSSION BOTH WAYS TODAY, AND I THINK IT WOULD JUST HELP TO
10:54AM 25 CLARIFY THAT.

SEALED PROCEEDINGS

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54AM 1 THE COURT: MS. TREBICKA, I UNDERSTOOD IT'S [REDACTED]

10:54AM 2 TABLES ARE BEING PRESERVED PLUS THERE ARE THESE [REDACTED] THAT ARE AT

10:54AM 3 ISSUE.

10:54AM 4 MS. TREBICKA: NO, YOUR HONOR. IT'S [REDACTED]. SO

10:54AM 5 IT'S -- [REDACTED] IS THE SUM TOTAL.

10:54AM 6 THE COURT: [REDACTED]?

10:54AM 7 MS. TREBICKA: [REDACTED] IS THE SUM TOTAL. I

10:54AM 8 APOLOGIZE.

10:54AM 9 THE COURT: IT DOESN'T MATTER. OKAY.

10:54AM 10 BUT THESE [REDACTED] ARE NOT CURRENTLY BEING PRESERVED; CORRECT?

10:54AM 11 MS. TREBICKA: THESE [REDACTED] ARE NOT CURRENTLY BEING

10:54AM 12 PRESERVED DUE TO THE CONCERNS AND JUSTIFICATIONS THAT

10:54AM 13 YOUR HONOR NOTED.

10:54AM 14 THE COURT: OKAY. ALL RIGHT.

10:54AM 15 THANK YOU, MR. MCGEE.

10:54AM 16 MY POINT IS WHAT TO DO WITH THESE [REDACTED] TABLES. THE

10:55AM 17 PRESERVATION BURDEN AS PRESENTED IN THE PAPERS BY GOOGLE DOES

10:55AM 18 RAISE THE ISSUE, SATISFACTORILY TO THE COURT'S VIEW, RAISE THE

10:55AM 19 ISSUE OF PROPORTIONALITY OF -- THE BALANCE OF PROPORTIONALITY

10:55AM 20 IN THE NEED TO PRESERVE THESE.

10:55AM 21 THE QUESTION WHETHER TECHNICALLY THEY FALL UNDER MY ORDER

10:55AM 22 OR NOT, ARE THEY NEEDED IF THE DATA IS AVAILABLE SOMEPLACE

10:55AM 23 ELSE, BUT IT'S THAT DATA AVAILABLE THAT IS STILL A QUESTION.

10:55AM 24 BUT IT'S A QUESTION THAT REALLY THE -- I THINK THE PARTIES NEED

10:55AM 25 TO MEET AND CONFER AND NEED A MORE CLEAR DEMONSTRATION OF.

SEALED PROCEEDINGS

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15AM 1 AND I DON'T SEE HOW THAT HAPPENS WITHOUT GOOGLE SHOWING
10:56AM 2 AND WORKING WITH THE PLAINTIFFS TO SHOW BOTH SIDES OF THE
10:56AM 3 EQUATION, WHICH IS HERE'S THE DATA IN THE TABLES THAT WE DON'T
10:56AM 4 THINK NEED TO BE PRESERVED FROM THE [REDACTED] TABLES, BUT HERE'S HOW
10:56AM 5 AND WHERE YOU FIND IT IN THE MATERIAL THAT IS BEING PRESERVED
10:56AM 6 AND WALK THROUGH THAT AND DEMONSTRATE.

10:56AM 7 NOW, I APPRECIATE PARTIES MAY OR MAY NOT APPRECIATE THE
10:56AM 8 FACT THAT THAT CAN HAPPEN, BUT WE HAVE GOOGLE'S REPRESENTATION
10:56AM 9 THAT THE DATA CAN EITHER BE DERIVED FROM OR IS DUPLICATED IN,
10:56AM 10 AND I THINK THAT THAT NEEDS TO BE MORE CLEARLY DEMONSTRATED AND
10:56AM 11 SOMETHING THAT I WOULD HOPE THE PARTIES CAN DO DIRECTLY, AGAIN,
10:56AM 12 ON SHORT ORDER WITH THE UNDERSTANDING THAT THE PRESERVATION
10:57AM 13 BURDEN FROM THESE TABLES IS SUCH THAT IF IT WERE TO BE THE
10:57AM 14 PLAINTIFF'S POSITION THAT NO, YOU KNOW, THAT LINK, THAT
10:57AM 15 DERIVATION IS NOT -- WE'RE NOT SATISFIED WITH THAT, THERE WILL
10:57AM 16 BE COST SHARING IN THIS. THERE WILL HAVE TO BE SOME
10:57AM 17 SIGNIFICANT SHIFTING OF COSTS AS TO PRESERVING THE TABLES
10:57AM 18 BECAUSE THIS IS -- IT'S SO MUCH MORE THAN EVEN THE BASIC
10:57AM 19 PRESERVATION OBLIGATIONS UNDER THE PLAN OF WHICH WE ALL TOOK SO
10:57AM 20 MUCH GREAT CARE AND EFFORT TO INSTILL.

10:57AM 21 SO I THINK IT BEHOOVES BOTH SIDES TO FIGURE OUT A WAY TO
10:57AM 22 SIT ACROSS THE TABLE WITH THE RIGHT PEOPLE AT THE TABLE AND
10:57AM 23 ADDRESS THIS ISSUE PARTICULARLY.

10:58AM 24 AGAIN, IF BOTH SIDES WERE TO AGREE THAT YOU NEEDED THE
10:58AM 25 SPECIAL MASTER'S ASSISTANCE, THEN WE CAN TALK ABOUT REFERRING

SEALED PROCEEDINGS

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58AM 1 YOU BACK TO THAT.

10:58AM 2 BUT IT SEEMS TO ME THAT GOOGLE'S PRESENTATION HERE IS

10:58AM 3 THOROUGH AND IT'S DESIGNED IN A WAY TO WALK THROUGH AND ADDRESS

10:58AM 4 THESE QUESTIONS. BUT THE PLAINTIFFS DON'T HAVE, THEY DON'T

10:58AM 5 HAVE ALL OF THE INFORMATION IN FRONT OF THEM TO VERIFY OR GET

10:58AM 6 COMFORTABLE WITH THESE CONNECTIONS THAT GOOGLE IS TRYING TO --

10:58AM 7 IS ILLUSTRATING.

10:58AM 8 SO REACTIONS TO THAT DIRECTION AND SUGGESTIONS ON TIMING

10:58AM 9 AND NEXT STEPS?

10:58AM 10 MS. TREBICKA.

10:58AM 11 MS. TREBICKA: YOUR HONOR, WE TAKE YOUR GUIDANCE.

10:58AM 12 THANK YOU FOR THAT. WE ARE AVAILABLE AND READY TO WORK WITH

10:58AM 13 PLAINTIFFS TO PROVIDE THEM THE SATISFACTION THAT THE

10:59AM 14 INFORMATION THAT WE SAY IS BEING PRESERVED AND IN THE OTHER

10:59AM 15 PLACES IS INDEED BEING PRESERVED IN THE OTHER PLACES.

10:59AM 16 THE COURT: OKAY. AND THAT REQUIRES SHOWING WHAT IS

10:59AM 17 IN THESE TABLES. IT REQUIRES BOTH SIDES. SO THERE HAS TO BE

10:59AM 18 SOME ADDITIONAL INFORMATION PROVIDED BY GOOGLE.

10:59AM 19 MS. TREBICKA: AS FAR AS THE MAPPING AND LINKING

10:59AM 20 THAT IS IN THESE TABLES, CORRECT, IS OUR UNDERSTANDING AT

10:59AM 21 LEAST.

10:59AM 22 THE COURT: RIGHT. YOU'RE SAYING THAT THIS IS THE

10:59AM 23 LINKING IN THE [REDACTED] TABLES AT ISSUE, AND HERE'S WHERE YOU FIND

10:59AM 24 IT IN WHAT IS ALREADY BEING PRESERVED.

10:59AM 25 MS. TREBICKA: WE UNDERSTAND, YOUR HONOR.

SEALED PROCEEDINGS

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59AM 1 THE COURT: BUT PLAINTIFFS NEED TO SEE BOTH SIDES OF
10:59AM 2 THAT.

10:59AM 3 MR. MCGEE, PLAINTIFFS' PERSPECTIVE?

10:59AM 4 MR. MCGEE: YOUR HONOR, I THINK THAT WHAT YOU'VE

10:59AM 5 PROPOSED IS KIND OF AT THE HEART OF WHAT WE PUT IN OUR
10:59AM 6 OPPOSITION AS WE DID HAVE THESE QUESTIONS, AND WE WOULD LIKE TO
10:59AM 7 MEET AND CONFER.

10:59AM 8 SO WE'LL SPEAK WITH OUR CONSULTANTS AND OUR EXPERTS TO SEE
11:00AM 9 WHAT THEIR AVAILABILITY IS, BUT WE WILL MOVE WITH THE ALACRITY
11:00AM 10 THAT THE COURT IS PROPOSING HERE.

11:00AM 11 THE COURT: OKAY. I WOULD LIKE TO GET A STATUS

11:00AM 12 REPORT AS TO WHAT THE PLAN IS. YOU TALK TO EACH SIDE AND SET
11:00AM 13 SOMETHING UP. GIVE ME A STATUS WITH A PROPOSED PATH FORWARD IN
10AM 14 SEVEN DAYS? IN A WEEK?

11:00AM 15 MR. MCGEE?

11:00AM 16 MR. MCGEE: YOUR HONOR, MY GRIMACE IS THAT WE DO
11:00AM 17 HAVE OUR OPPOSITION TO THE ORDER TO SHOW CAUSE THAT IS DUE
11:00AM 18 JANUARY 20TH THAT OUR CONSULTANTS AND EXPERTS ARE WORKING WITH.

11:00AM 19 THE COURT: OKAY. WELL, I WAS GOING TO GIVE YOU
11:00AM 20 21 DAYS, SO I THINK THAT THAT GETS US PAST THAT. THANK YOU FOR
11:00AM 21 REMINDING ME OF THAT. I -- HOW COULD I FORGET. MORE TO COME.

11:00AM 22 MR. MCGEE: THANK YOU.

11:01AM 23 THE COURT: LET'S DO THIS, 21 DAYS, BUT I WANT -- I
11:01AM 24 MEAN, THAT'S NOT AN OKAY, NOW WE'RE JUST GOING TO GET STARTED.
11:01AM 25 IF I AM GIVING YOU 21 DAYS, YOU NEED TO HAVE SPOKEN WITH YOUR

SEALED PROCEEDINGS

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01AM 1 EXPERTS, HAVE A PLAN ON HOW TO PROCEED, HAVE MET AND CONFERRED,
11:01AM 2 AND HAVE AN AGREED PLAN AND TIMELINE.

11:01AM 3 YOU KNOW, WE'RE GOING TO MEET OVER THE NEXT 30 DAYS OR THE
11:01AM 4 NEXT 10 DAYS, OR WHATEVER IT IS. AND I DO EXPECT BOTH SIDES TO
11:01AM 5 BE RESPECTFUL OF THE DEADLINES AROUND THE ADDITIONAL BRIEFING
11:01AM 6 THAT WE HAVE FOR OUR NEXT HEARING IN MARCH.

11:01AM 7 MS. TREBICKA: ALL RIGHT, YOUR HONOR, BECAUSE THEN
11:01AM 8 OUR REPLY FALLS WITHIN THAT.

11:01AM 9 THE COURT: EXACTLY. BUT I ALSO SEE A LOT OF
11:01AM 10 GOOGLE'S WORK IS DONE, AND THE GOOGLE DECLARATIONS DON'T RELATE
11:01AM 11 TO THOSE OTHER ISSUES, BUT I ALSO APPRECIATE THERE ARE ONLY SO
11:01AM 12 MANY LAWYERS IN THE -- EVEN IN THIS CASE, THERE ARE ONLY SO
11:02AM 13 MANY WHO CAN WORK THROUGH THIS.

12AM 14 SO I LEAVE THAT TO THE PARTIES, AND YOU'LL REPORT BACK TO
11:02AM 15 ME IN 21 DAYS IN A JOINT STATEMENT, AND I EXPECT THAT TO BE A
11:02AM 16 REPORT AS TO HERE IS THE PLAN AND HERE IS WHERE WE ARE GOING.
11:02AM 17 AND YOU CAN GET THIS TOGETHER AND WORK THROUGH WITHOUT MY
11:02AM 18 MAKING YOU COME TO COURT AND WORK IN THE CONFERENCE ROOM DOWN
11:02AM 19 THE HALL. ALL RIGHT.

11:02AM 20 MR. MCGEE: YES.

11:02AM 21 THE COURT: ANYTHING ELSE ON THIS? THIS IS GOOGLE'S
11:02AM 22 MOTION, MS. TREBICKA.

11:02AM 23 MS. TREBICKA: YES, YOUR HONOR. NOT ON THE NOTICED
11:02AM 24 MOTION THAT WE WERE JUST DISCUSSING, BUT RATHER ON OUR MOTION
11:02AM 25 FOR PRESERVATION RELIEF ON THE BASIS OF JUDGE GONZALEZ ROGERS'

SEALED PROCEEDINGS

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10AM 1 DECEMBER 12TH ORDER.

11:02AM 2 WE DID PUT A LOT OF EFFORT INTO THAT MOTION BECAUSE WE

11:02AM 3 REALLY THOUGHT THAT GIVEN THE CIRCUMSTANCES, THAT JUST THE

11:03AM 4 SHIFT IN THE EQUITIES HERE WITH THE RULE 23(B) (3) CLASS BEING

11:03AM 5 DENIED, THE MASSIVE PRESERVATION COSTS THAT GOOGLE IS

11:03AM 6 UNDERTAKING, THEY'RE NOT ONLY MONETARY, ENGINEERING COSTS,

11:03AM 7 HUMAN COSTS, PRIVACY COSTS IN PRESERVING THIS DATA, THEY'RE SO

11:03AM 8 MASSIVE AND NOW REALLY THE BASIS FOR THOSE PRESERVATION COSTS

11:03AM 9 WE BELIEVE HAS ERODED. SO I JUST WANTED TO MAKE THAT POINT IN

11:03AM 10 FRONT OF YOUR HONOR. I WOULD BE REMISS IF I DIDN'T DO THAT.

11:03AM 11 AND ALSO ASK WHETHER I UNDERSTOOD YOUR HONOR TO BE TABLING

11:03AM 12 THAT DISCUSSION OF THE TOTAL PRESERVATION RELIEF ON THE BASIS

11:03AM 13 THAT THERE'S A RULE 23(F) APPEAL.

11:03AM 14 WE WOULD LIKE TO RENEW OUR MOTION ONCE WE HAVE CLARITY ON

11:03AM 15 THE RULE 23(F) APPEAL, AND I JUST WANT TO MAKE SURE THAT

11:03AM 16 YOUR HONOR IS AWARE OF THAT.

11:04AM 17 THE COURT: I APPRECIATE THAT. THE PRESERVATION

11:04AM 18 ISSUE IS TIED IN PART OBVIOUSLY TO THE ISSUE ON APPEAL, BUT I

11:04AM 19 WANTED CLARIFICATION BECAUSE I UNDERSTOOD FROM THE SUBMISSIONS

11:04AM 20 THAT ALL OTHER PRESERVED DATA, TAKING OUT THE TABLES ISSUE,

11:04AM 21 WHICH I'M CONFIDENT THAT THE PARTIES ARE GOING TO BE ABLE TO

11:04AM 22 ADDRESS IN A CONSTRUCTIVE WAY, THAT THE DATA LOAD IN [REDACTED]

11:04AM 23 AFTER THREE YEARS IS [REDACTED], AND THE COST NUMBER, TAKING

11:04AM 24 GOOGLE'S COST ANALYSIS, IS [REDACTED] OVER A THREE YEAR PERIOD.

11:04AM 25 AM I UNDERSTANDING THAT CORRECTLY?

SEALED PROCEEDINGS

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104AM 1 MS. TREBICKA: YES, YOUR HONOR. THAT'S ACCORDING TO
11:05AM 2 OUR CALCULATIONS AT THIS POINT.

11:05AM 3 THE COURT: I UNDERSTAND. SO WHILE THAT IS NOT
11:05AM 4 INSIGNIFICANT, IT'S NOT AN OVERWHELMING BURDEN THAT IN MY VIEW
11:05AM 5 CHANGES THE PROPORTIONALITY ANALYSIS NOTWITHSTANDING THE SHIFT
11:05AM 6 IN CLASS STATUS, BUT ULTIMATELY THERE'S NOT YET ENOUGH
11:05AM 7 INFORMATION AS TO WHAT IS HAPPENING AND WHAT THE CLASS STATUS
11:05AM 8 IS.

11:05AM 9 SO I'M GOING TO DENY THE REQUEST, GOOGLE'S REQUEST IN ITS
11:05AM 10 BRIEF BEFORE THE COURT AS TO THE IMPACT OF
11:05AM 11 JUDGE GONZALEZ ROGERS' ORDER WHEREIN GOOGLE REQUESTED THAT IT
11:05AM 12 NOT HAVE TO PRESERVE ANYTHING GOING FORWARD AND THAT IT BE
11:05AM 13 PERMITTED TO DELETE DATA PRESERVED THUS FAR OR HAVE PLAINTIFF
11:05AM 14 SHARE IN THE COST OF THE CONTINUED PRESERVATION, I'M GOING TO
11:06AM 15 DENY THAT WITHOUT PREJUDICE, AND IT CAN BE RENEWED IF THE
11:06AM 16 UNDERLYING FACTS AND CIRCUMSTANCES CHANGE.

11:06AM 17 MS. TREBICKA: UNDERSTOOD, YOUR HONOR.
11:06AM 18 AND ALSO TO CLARIFY FOR THE RECORD A BASIS FOR THE BURDEN
11:06AM 19 IS NOT JUST THE MONETARY COST, ALTHOUGH [REDACTED] IS NOTHING
11:06AM 20 TO --

11:06AM 21 THE COURT: NO. I UNDERSTAND. THERE WAS AN
11:06AM 22 ARGUMENT MADE AND IT'S IN THE RECORD OF THE [REDACTED]
11:06AM 23 [REDACTED], THE ENGINEERING IMPACT, THE HUMAN COST, IF YOU WILL,
11:06AM 24 AND I APPRECIATE THAT.

11:06AM 25 I REFERRED TO THE [REDACTED] IN THE DOLLARS BECAUSE THOSE

SEALED PROCEEDINGS

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06AM 1 ARE IN TABLES AND I CAN -- YOU KNOW, TO THE EXTENT THAT THEY'RE
11:06AM 2 QUANTIFIED, THEY'RE THERE.

11:06AM 3 OKAY. SO THAT IS DENIED WITHOUT PREJUDICE.

11:06AM 4 WITH REGARDS TO NOTICED MOTION FOR ADJUSTMENTS ON THE
11:06AM 5 TABLES, THE PARTIES WILL NEED TO MEET AND CONFER IN ACCORDANCE
11:06AM 6 WITH THE GUIDANCE OF THE COURT, AND I WILL GET A STATUS RECORD
11:07AM 7 WITH A TIMELINE AS TO COMPLETION IN THE NEAR TERM, BUT I WILL
11:07AM 8 GET THAT IN 21 DAYS. AND I WILL ISSUE A SHORT ORDER
11:07AM 9 SUMMARIZING OUR RULINGS HERE TODAY.

11:07AM 10 MR. MCGEE: THANK YOU, YOUR HONOR.

11:07AM 11 THE COURT: ALL RIGHT. THANK YOU.

11:07AM 12 THAT CONCLUDES BROWN. THANK YOU.

11:07AM 13 MS. TREBICKA: THANK YOU.

11:07AM 14 THE COURT: ALL RIGHT. WE'RE GOING TO TAKE A FIVE
11:07AM 15 MINUTE BREAK BEFORE STARTING THE CALHOUN HEARING SO I CAN,
11:07AM 16 FRANKLY, SHIFT MY FILES AND BINDERS.

11:07AM 17 FIVE MINUTES. THANK YOU.

11:07AM 18 (COURT CONCLUDED AT 11:07 A.M.)
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1
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3 CERTIFICATE OF REPORTER
4
5
6

7 I, THE UNDERSIGNED OFFICIAL COURT REPORTER OF THE
8 UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
9 CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO
10 HEREBY CERTIFY:

11 THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS
12 A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE
13 ABOVE-ENTITLED MATTER.

14 *Irene Rodriguez*
15

16 IRENE RODRIGUEZ, CSR, RMR, CRR
17 CERTIFICATE NUMBER 8074
18

19 DATED: JANUARY 12, 2023
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